



PROCUREMENT POLICY & PROCEDURE DIRECTIVE

SUBJECT: RATIFICATION OF UNAUTHORIZED COMMITMENTS

ORIGINATING OFFICE: Policy and Procedures Unit

1. **PURPOSE:** The purpose of this policy directive is to establish procedures for the ratification of unauthorized commitments.
2. **AUTHORITY:**
 - 2.1 Section 202 of the *District of Columbia Procurement Practices Act of 1985* (PPA), effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01), as amended by the Procurement Reform Amendment Act of 1996 (PRAA), effective April 9, 1997 (D.C. Law 11-259; D.C. Official Code §§ 2-301.01 *et seq.*).
 - 2.2 The *Procurement Practices Vendor Payment Authorization Amendment Act of 2002*, effective April 4, 2003 (D.C. Law 14-281; D.C. Official Code § 2-301.05(d)).
3. **APPLICABILITY:** This policy directive shall apply to all agencies of the District government that contract pursuant to the provisions of the PPA, as amended.
4. **DEFINITIONS:**
 - 4.1 **Agency Director.** The term *Agency Director* includes the principal officer, director or commissioner of an office, department, board, commission or other entity within the District government, or the principal executive officer of an independent agency of the District government.
 - 4.2 **Agency Chief Contracting Officer.** An *Agency Chief Contracting Officer* (ACCO) is the OCP employee authorized in writing by the Chief Procurement Officer to engage in procurement actions on behalf of the District government.

- 4.3 **Chief Procurement Officer.** The term *Chief Procurement Officer* (CPO) refers to the position established in section 105 of the PPA [D.C. Official Code §§ 2-301.05(a) and (b)].
- 4.4 **Ratification.** A *ratification* is the action by the CPO to authorize payment for goods or services received by the District without a valid written contract.
- 4.5 **Ratification Request.** The completed documents that must be approved by either the CPO or Council in order to pay a vendor for an unauthorized commitment.
- 4.6 **Ratification Requests Subject to CPO Final Approval.** The CPO is authorized to take final action on ratification requests that either do not exceed \$100,000 or are the first two (2) requests submitted on a vendor's behalf. An agency's ratification request package for CPO approval shall contain the original and six (6) copies of the following:
- (a) A transmittal or cover letter from the agency to the CPO;
 - (b) Completed *OCP Forms A* through *C*;
 - (c) A copy of the original contract, if any;
 - (d) Invoices;
 - (e) Timesheets, if any;
 - (f) Receipts, if any;
 - (g) Relevant correspondence, if any;
 - (h) Determinations and Findings;
 - (i) A pre-encumbered purchase request indicating the following: "*Appropriated funds are available and have been encumbered, and payment should be made subject to the CPO's approval of the ratification request.*"; and
 - (j) Any other pertinent documents substantiating the ratification request.
- 4.7 **Ratification Requests Subject to Council Final Approval.**
- (a) The Council shall consider:

- (i) Ratification requests exceeding \$100,000; or
 - (ii) All ratification requests submitted on a vendor's behalf once the CPO has considered the first two (2).
- (b) An agency's ratification request package for Council approval shall contain the original and six (6) copies of the following:
 - (i) The documents required under subsection 4.6; and
 - (ii) The *Legislative Transmittal Documents* completed by the agency, including a transmittal letter to the Council Chairman from the Mayor; a memorandum from the Agency Director to the Chief Financial Officer (CFO) requesting a fiscal impact statement; and a proposed bill. (Appendix E)

4.8 **Unauthorized Commitment.** An *unauthorized commitment* is the receipt of goods or services without a valid written contract by the District government.

5. **POLICY AND PROCEDURE STATEMENT:**

5.1 **Contracting Authority.**

- 5.1.1 **Exclusive Contracting Authority.** By delegation from the Mayor, and in accordance with the PPA, as amended, the CPO is the exclusive contracting authority for procurements in the District.
- 5.1.2 **Delegations from the Chief Procurement Officer.** Only an individual to whom authority is delegated in writing from the CPO may engage in procurement actions on behalf of an agency that obligate the District government.
- 5.1.3 In accordance with the PPA, as amended, each District government contract shall comply with all applicable laws and regulations.

5.2 **General Rules Prohibiting Unauthorized Commitments.**

- 5.2.1 No District employee shall authorize payment for the value of goods or services received without a valid written contract.

- (a) **Exception.** This provision does not apply to a payment required by court order, a final decision of the Contract Appeals Board, or an approval by the CPO in accordance with subsections 5.2.4 and 5.2.5 of this policy directive.

5.2.2 No District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid written contract.

- (a) **Termination of the Responsible Employee.** Any violation of this subsection shall be cause for the employee's termination. [D.C. Official Code § 2-301.05(d)(2).]

5.2.3 Except as authorized by subsections 5.2.4 and 5.2.5 of this policy directive, any vendor who enters into an oral agreement with a District employee to provide goods or services to the District government without a valid written contract shall not be paid.

- (a) **Termination of a Supervisor.** If a District employee, at the direction of a supervisor, entered into the oral agreement, the supervisor shall be terminated. [D.C. Official Code § 2-301.05(d)(3).]

5.3 General Rules Concerning the Ratification of Unauthorized Commitments by the CPO.

5.3.1 The CPO shall review and verify an Agency Director's ratification request.

5.3.2 **Proof of Disciplinary Action.** The CPO shall either approve or disapprove each ratification request provided that he or she has received written notification describing the disciplinary action taken by the relevant personnel authority against the employee who authorized the payment or delivery of goods or services without a valid written contract. If the CPO is the relevant personnel authority, he or she shall describe in writing the disciplinary action taken prior to approving or disapproving the payment request. [*See OCP Form B, subsection (e)*]

- (a) **Unauthorized Commitments of the Chief Procurement Officer.** If the employee who authorized payment or delivery of goods and services without a valid written contract is the CPO, the matter shall be referred to the Mayor for appropriate disciplinary action. The Mayor shall state in writing the disciplinary action taken before the CPO may approve or disapprove the payment request.

- (b) **Responsible Employee's Right of Privacy.** Any information required by this policy directive concerning disciplinary action imposed against the responsible employee shall maintain the employee's privacy by not identifying his or her name, title, grade or address.

5.3.3 **Limitations on the Chief Procurement Officer's Ratification Authority.**

The CPO or his or her designee may authorize payment for goods or services received without a valid written contract if:

- (a) **Benefit Received.** The goods or services have been provided to and accepted by the District government, or the District government otherwise has obtained or will obtain a benefit resulting from the provision of goods or services without a valid written contract.
- (b) **Fair and Reasonable Price.** The ACCO has determined that the price for the goods or services provided without a valid written contract is fair and reasonable.
- (c) **Recommended Payment.** The ACCO has recommended payment for the goods or services provided without a valid written contract.
- (d) **Available Funds.** The CFO, or his or her designee, has certified that appropriated funds are available to pay the amount requested.
- (e) **Ratification Requests Within the CPO's Authority.** The dollar value of the goods or services provided to and accepted by the District government does not exceed \$100,000, or the request being reviewed is either the first or second request considered by the CPO on the vendor's behalf.
- (f) **Other Procedures or Limitations.** The request for payment for the goods or services received without a valid written contract is in accordance with other procedures or limitations prescribed by the CPO.

5.3.4 **Transmittal of Ratification Requests to the Council.**

- (a) An agency shall forward its original ratification request package to the CPO for review prior to its transmittal to the Council.
 - (i) The CPO shall be responsible for forwarding the original ratification request package to the Council.

- (ii) An ACCO shall be responsible for forwarding a copy of the original ratification request package, including the *Legislative Transmittal Documents*, to the agency's Deputy Mayor.
- (iii) An ACCO shall be responsible for notifying the Agency Director and the vendor of the Council's decision in writing.

5.4 Avoidance of Unauthorized Commitments.

5.4.1 The following affirmative steps should be taken by an Agency Director to prevent the receipt of goods and services without a valid written contract:

- (a) **Procurement Planning.** An Agency Director should conduct proper procurement planning to ensure that contractual arrangements for necessary goods and services are made in a timely manner.
- (b) **Agency Notification.** An Agency Director should post the *Agency Director Notification Memorandum* (Appendix K) within the agency to inform employees that purchasing goods and services without a valid written contract is prohibited.
- (c) **Disciplinary Action.** An Agency Director should ensure that the appropriate disciplinary action is initiated against the employee responsible for an unauthorized commitment pursuant to subsections 5.2.2, 5.2.3 and 5.2.4(b) and (c) of this policy directive.

5.5 Ratification Request Preparation, Transmittal and Approval Process.

5.5.1 Agency Representative Request and Certification Form.

- (a) **Preparation.** The *Agency Representative Ratification Request and Certification Form (OCP Form A)* (Appendix B) shall be prepared by the agency representative with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment.
- (b) *OCP Form A* shall include:
 - (i) A statement indicating why the responsible employee (not identified by name, title, grade or address) did not follow normal contract procedures to procure the goods and services in question;

- (ii) A statement describing the government requirement or need that caused the unauthorized commitment to be made;
 - (iii) A statement describing the goods and services provided to and accepted by the government, or the benefit received;
 - (iv) A statement indicating the dollar value of the goods or services provided to and accepted by the government or the benefit received;
 - (v) A statement describing any other pertinent facts and information pertaining to the procurement action;
 - (vi) The signature of an agency representative (other than the responsible employee) with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment; and
 - (vii) Copies of all relevant documents substantiating the transaction including those listed in subsection 4.6(d) through (k) of this policy directive.
- (c) **Transmittal.** Once completed, *OCP Form A* filed shall be placed in the ratification request file, which file shall be transferred to the Agency Director.
- (d) **Ratification Request Committee Meeting Participation.** The agency representative (other than the responsible employee and the ACCO) shall be required to attend the Ratification Request Committee meeting to discuss the completed form.

5.5.2 Agency Director Ratification Request and Certification Form.

- (a) **Preparation.** An *Agency Director Ratification Request and Certification Form (OCP Form B)* (Appendix C) shall be prepared by the agency that received the goods or services in question.
- (b) *OCP Form B* shall:
- (i) Verify and attest to the fact that goods or services were received by the agency.

- (ii) Verify and attest to the fact that the amount claimed by the vendor is fair, reasonable and consistent with the agreement to provide the goods or services for which payment is claimed and agreed upon.
 - (iii) Describe any disciplinary action taken by the relevant personnel authority against the responsible employee without identifying their name, title, grade or address.
 - (iv) Include a written description of the steps taken by the Agency Director to prevent a recurrence of unauthorized commitments in the future.
 - (v) Include the number of unauthorized commitments that do not exceed \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003.
 - (vi) Include the number of unauthorized commitments exceeding \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003.
 - (vii) Include a statement from the Agency's Chief Financial Officer verifying that appropriated funds are available to pay the requested amount.
- (c) **Transmittal.** Once completed, *OCP Form B* shall be placed in the ratification request file, which file shall be transferred to the agency ACCO.
- (d) **Deadline for Transmitting the Ratification Request File to an ACCO.**
- (i) An ACCO must receive the original, complete ratification request file by the close of business on the Wednesday before a regularly scheduled Ratification Request Committee meeting in order for the request to be considered at the next meeting.

5.5.3 Agency Chief Contracting Officer Findings and Determination Statement.

- (a) **Preparation.** The ACCO shall:
- (i) Complete the *Agency Chief Contracting Officer Findings and Determination Statement (OCP Form C)* (Appendix D) for the agency that received the goods or services in question; and

- (ii) Attend the ratification request meeting to discuss the completed forms.
- (b) *OCP Form C* shall include the following information:
 - (i) Whether the unauthorized commitment could have resulted in a properly executed contract.
 - (ii) Whether funds are available to pay for the goods and services, as certified by the agency's Chief Financial Officer.
 - (iii) Whether the price to be paid for the goods and services is fair and reasonable, and the basis for the determination.
 - (iv) Any other relevant information that should be taken into consideration in determining whether the ratification request should be approved or denied.
- (c) Once completed, *OCP Form C* shall be placed in the ratification request file.

5.5.4 OCP Ratification Request Committee.

- (a) There is hereby established by the CPO an OCP Ratification Request Committee (Committee).
- (b) **Membership.** The Committee shall consist of the following members:
 - (i) One (1) Chairperson as designated by the CPO;
 - (i) Three (3) OCP senior staff members as designated by the CPO; and
 - (ii) One (1) representative from the Office of the General Counsel.
- (c) **Meetings.** The Committee shall:
 - (i) Hold two (2) regular monthly meetings on the first and third Wednesday of each month at 2:00 p.m. at times and in places set by the Chairperson. (Appendix F)
 - (ii) The Chairperson may schedule additional meetings as necessary.

- (iii) The ACCO shall transmit the original and six (6) copies of a ratification request package to the CPO's Executive Assistant by the close of business on the Friday before a regularly scheduled Committee meeting in order to be considered at the next meeting.
 - (iv) The Committee Chair, with the assistance of the CPO's Executive Assistant, shall be responsible for scheduling Committee meetings.
- (d) **Ratification Request Committee Filings.** To be properly filed with the Ratification Request Committee, a ratification request package to be considered by the CPO shall contain:
 - (i) The original documents described in subsections 4.6 and 4.7 and six (6) copies; and
 - (ii) A Ratification Request Database identification and date/time-stamp provided by OCP.
- (e) **Responsibility.** The Committee shall review and separately consider each ratification request within the CPO's authority, and recommend to the CPO whether a request should be approved, denied or returned.
- (f) **Factors To Be Considered.** The Committee shall consider each of the following factors before recommending the approval or denial of a ratification request:
 - (i) The facts and circumstances of each request.
 - (ii) Whether goods or services have been provided to and accepted by the District government without a valid written contract.
 - (iii) Whether the District government has obtained or will obtain a benefit resulting from the provision of goods or services without a valid written contract.
 - (iv) Whether the ACCO has determined that the price paid for the goods or services was fair and reasonable.
 - (v) Whether the ACCO has recommended payment.
 - (vi) Whether the agency CFO, or his or her designee, has certified that appropriated funds are available to pay the requested amount.

- (vii) Whether the relevant personnel authority imposed an appropriate disciplinary action against the responsible employee.
 - (viii) Whether appropriate remedial action was undertaken by the agency to prevent a recurrence of unauthorized commitments in the future.
 - (ix) Whether the ratification request is in accordance with any other procedures or limitations prescribed by the CPO.
- (g) **Ratification Request Committee Vote.** A vote by the Committee recommending approval or denial of a ratification request:
- (i) Shall be by a majority of the members present and voting;
 - (ii) Shall be forwarded to the CPO for final action;
 - (iii) Shall not bind the CPO from taking any specific action; and
 - (iv) Shall be documented by completing the *OCP Ratification Request Committee Recommendation Form. (OCP Form F)* (Appendix G)

5.5.5 Chief Procurement Officer Final Determinations.

- (a) The CPO shall review a ratification request within his or her authority that has been forwarded by the Committee to determine whether it should be ratified.
- (b) **Agency Director and Vendor Notification of the CPO's Final Decision.** Once the CPO makes a final decision approving or denying a ratification request, he or she shall:
 - (i) Complete either the *Chief Procurement Officer Ratification Request Final Determination Approval Memorandum (OCP Form G)* (Appendix H), or the *Chief Procurement Officer Ratification Request Final Determination Disapproval Memorandum. (OCP Form H)* (Appendix I);
 - (ii) Return the original ratification request file to the Committee Chairperson;
 - (iii) Direct the Committee Chairperson to return the original ratification request file to the ACCO; and

- (iv) Direct the ACCO to inform the Agency Director and the vendor of the final decision.
- (e) **Approved Ratification Requests.** After a ratification request has been approved, the ACCO shall:
 - (i) Forward a copy of the CPO's final determination memorandum to the Agency Director;
 - (ii) Advise the vendor of the approval in writing;
 - (iii) Forward the pre-encumbered purchase request and any other necessary document(s) authorizing the vendor to be paid to the agency CFO; and
 - (iv) Close out the ratification request file, ensuring that all appropriate documentation is attached, including a copy of the payment voucher, the date the check was forwarded to the vendor, and the check amount.
- (f) **Denied Ratification Requests.** After a ratification request has been denied by the CPO, the ACCO shall:
 - (v) Forward a copy of the CPO's final determination memorandum to the Agency Director; and
 - (vi) Advise the vendor of the denial in writing.

5.6 Ratification Request File Storage.

- 5.6.1 An ACCO shall be responsible for properly storing the original ratification request file once the CPO renders a final decision.

5.7 Ratification Request Reports.

- 5.7.1 A ratification request report shall be submitted by the CPO to the Mayor, for transmittal to the Council, at least four (4) times each year which report shall include the number of persons disciplined under subsections 5.2.2(a) and 5.2.3(a).
- 5.7.2 A ratification request report shall not identify the name, title, grade or address of the employee responsible for the ratification request.

6. **FORMS AND APPENDICES:**

- 6.1 **Appendix A:** Lists of documents included in an agency's ratification request package for consideration by the Chief Procurement Officer and the Council.
- 6.2 **Appendix B:** The *Agency Representative Ratification Request and Certification Form*. (OCP Form A)
- 6.3 **Appendix C:** The *Agency Director Ratification Request and Certification Form*. (OCP Form B)
- 6.4 **Appendix D:** The *Agency Chief Contracting Officer Findings and Determination Statement*. (OCP Form C)
- 6.5 **Appendix E:** Sample *Legislative Transmittal Documents*, including:
 - (a) A sample transmittal letter to the Council Chairman from the Mayor (*Attachment 1E*);
 - (b) A sample memorandum from the Agency Director to the Chief Financial Officer requesting a fiscal impact statement (*Attachment 2E*); and
 - (c) A proposed bill (*Attachment 3E*).
- 6.6 **Appendix F:** Sample *Notice of OCP Ratification Request Committee Meeting Notice*. (OCP Form D)
- 6.7 **Appendix G:** *OCP Ratification Request Committee Recommendation Form*. (OCP Form E)
- 6.8 **Appendix H:** Sample *Chief Procurement Officer Ratification Request Final Determination Approval Memorandum*. (OCP Form F)
- 6.9 **Appendix I:** Sample *Chief Procurement Officer Ratification Request Final Determination Disapproval Memorandum*. (OCP Form G)
- 6.10 **Appendix J:** Sample *Chief Procurement Officer Ratification Request Transmittal Memorandum*. (OCP Form H)
- 6.11 **Appendix K:** Sample *Agency Director Notification Memorandum* advising agency employees that purchasing goods or services without a valid written contract is

prohibited.

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6.12 Appendix L: *“What You Should Know About the Ratification Process.”*

7. **AMENDS OR SUPERSEDES**: This policy directive supersedes previous OCPD 1800.00 (effective July 1, 2000), OCPD 1800.01 (effective January 28, 2002), and OCPD 1800.02 (effective May 2, 2002).
8. **EFFECTIVE DATE**: This policy directive shall become effective on August 11, 2003.
9. **EXPIRATION DATE**: This policy directive shall expire on August 11, 2005.

Jacques Abadie, III, CPCM
District of Columbia Chief Procurement Officer
Office of Contracting and Procurement

Date

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Appendix A

*Lists of Documents included in an
Agency's Ratification Request Package
(2 pages)*



RATIFICATION REQUESTS CONSIDERED BY THE CHIEF PROCUREMENT OFFICER

If the ratification request does not exceed \$100,000, or is the first or second request considered by the CPO on a vendor's behalf, submit the original and six (6) copies of the following:

- ___ a) A transmittal or cover letter from the agency to the CPO.
- ___ b) OCP Form A (*Agency Representative Ratification Request and Certification Form*).
- ___ c) OCP Form B (*Agency Director Ratification Request and Certification Form*).
- ___ d) OCP Form C (*Agency Chief Contracting Officer Findings and Determination Statement*).
- ___ e) A copy of the original contract, if any.
- ___ f) A copy of the invoices.
- ___ g) A copy of the timesheets, if any.
- ___ h) A copy of the receipts, if any.
- ___ i) A copy of all relevant correspondence and memoranda.
- ___ j) A copy of the Determinations and Findings.
- ___ k) A pre-encumbered purchase request indicating that "*Appropriated funds are available and payment should be made subject to the CPO's approval of the ratification request.*"
- ___ l) A copy of any other pertinent documents substantiating the ratification request.

*Please check each item before submitting your ratification request package.
Do not file this document with your official package.*



RATIFICATION REQUESTS CONSIDERED BY THE COUNCIL

If the ratification request exceeds \$100,000 or if more than two (2) requests have previously been considered by the CPO on the vendor's behalf, submit the original and six (6) copies of the following documents for Council review:

- ___ a) The *Legislative Transmittal Documents* completed by the agency, including a transmittal letter to the Council Chairman from the Mayor; a draft memorandum from the Agency Director to the Chief Financial Officer requesting a fiscal impact statement; and a proposed bill. (Appendix E)
- ___ b) A transmittal or cover letter from the agency to the CPO.
- ___ c) OCP Form A (*Agency Representative Ratification Request and Certification Form*).
- ___ d) OCP Form B (*Agency Director Ratification Request and Certification Form*).
- ___ e) OCP Form C (*Agency Chief Contracting Officer Findings and Determination Statement*).
- ___ f) A copy of the original contract, if any.
- ___ g) A copy of the invoices.
- ___ h) A copy of the timesheets, if any.
- ___ i) A copy of the receipts, if any.
- ___ j) A copy of all relevant correspondence and memoranda.
- ___ k) A copy of the Determinations and Findings.
- ___ l) A pre-encumbered purchase request indicating the following: "*Appropriated funds are available and have been encumbered, and payment should be made subject to the CPO's approval of the ratification request.*"; and
- ___ m) A copy of any other pertinent documents substantiating the ratification request.

*Please check each item before submitting your ratification request package.
Do **not** file this document with your official package.*

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Appendix B

OCP Form A
Agency Representative Ratification Request and Certification Form
(2 pages)

**AGENCY REPRESENTATIVE RATIFICATION REQUEST AND
CERTIFICATION FORM**

I _____, hereby certify that the _____
(Agency Representative) *(Agency Name)*
received the following goods or services from _____:
(Name of Vendor)

(Description of goods or services)

The above-described goods were received by the agency on or about _____
(Date)
or the above-described services were received by the agency from _____
(Date)
through _____.
(Date)

The total cost of the goods or services is _____.
(Enter Amount)

CIRCUMSTANCES REGARDING THE NEED FOR THIS RATIFICATION ACTION:

- a) Describe why the normal procurement procedures were not followed.

- b) Describe the specific District government requirement or need that caused the transaction to be made.

- c) Describe the benefit received by the District government as a result of the transaction.

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- d) Has the employee responsible for this ratification request received written notification of the disciplinary action taken against them? ☐ **YES** ☐ **NO**

If "yes", please describe the disciplinary action taken against the employee (without including their name, title, grade or address). If "no", why?

- e) Please provide any other pertinent facts or information.

- f) Are there any shipping records, invoices, orders, or requests for payment or other documentary evidence of the transaction? ☐ **YES** ☐ **NO**

Is the documentary evidence attached to this form? ☐ **YES** ☐ **NO**

PREPARER CERTIFICATION

I, the agency representative with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment, further certify that the information, circumstances and details described above are complete, accurate and true, and hereby request that the Chief Procurement Officer approve this ratification request for the goods and services received.

Print Name of Agency Representative

Signature

Date

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Appendix C

OCP Form B
Agency Director Ratification Request and Certification Form
(2 pages)

I, _____, hereby certify, based upon the certification of _____,
(Agency Director)

_____, that the _____,
(Agency Representative) *(Agency Name)*

received the following goods or services from _____:
(Vendor Name)

_____.
(Description of goods or services)

I further certify, based upon the certification of _____,
(Agency Representative)

that the amount requested to pay the vendor, _____, is fair, reasonable
(Dollar amount)

and consistent with the agreement to provide the goods or services for which payment is
claimed and agreed upon.

a) The reasons(s) why the goods or services were requested or authorized.

c) The reason(s) why the procurement action was/were not authorized? _____

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- d) Steps taken to prevent unauthorized commitments in the future.

- e) Describe the disciplinary action taken against the employee responsible for this ratification request. (Do not include the employee's name, title, grade or address.)

- f) Has the employee responsible for this ratification request received written notification of the disciplinary action taken against him or her? ☐ **YES** ☐ **NO**

- g) Provide the number of unauthorized commitments not exceeding \$100,000 submitted by your agency on the vendor's behalf since April 4, 2003. _____

- h) Provide the number of unauthorized commitments exceeding \$100,000 submitted by your agency on the vendor's behalf since April 4, 2003. _____

AGENCY DIRECTOR CERTIFICATION

I further certify that my agency has budget authority to pay the above-stated amount. Upon being notified by the Chief Procurement Officer that the unauthorized commitment has been ratified, my agency will promptly prepare and forward the appropriate payment document(s) to the agency Chief Financial Officer.

Date

Signature of Agency Director

AGENCY CHIEF FINANCIAL OFFICER/CONTROLLER CERTIFICATION

I (__) agree (__) disagree that the agency has sufficient appropriated funds to pay the requested amount upon the Chief Procurement Officer's ratification of the unauthorized commitment.

Date

Signature of Agency CFO/Controller

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Appendix D

OCP Form C
Agency Chief Contracting Officer Findings and Determination Statement
(1 page)

**AGENCY CHIEF CONTRACTING OFFICER
FINDINGS AND DETERMINATION STATEMENT**

I, _____, hereby certify, based upon the information
(Agency Chief Contracting Officer)
provided by _____ for _____,
(Agency Representative) (Agency Name)
pertaining to the following goods or services: _____

(Description of goods or services)
from _____ received by the agency on or about _____,
(Vendor Name) (Date)

have determined that:

- a) The unauthorized commitment (____) **could** (____) **could not** have resulted in a properly executed contract.

- b) Appropriated funds (____) **are** (____) **are not** available as certified by the Agency Chief Financial Officer.

- c) The price to be paid for the goods or services (____) **is** (____) **is not** fair and reasonable. The basis for this determination is as follows:

- d) There (____) **is** (____) **is no** other relevant information that should be taken into consideration in determining appropriate action on the ratification request.

CERTIFICATION OF AGENCY CHIEF CONTRACTING OFFICER:

I hereby certify that the information provided above is accurate and complete.

Date

ACCO Signature

OCPD 1800.03/OCP Form C/ 1 of 1/rev. 8/11/03)

OCPD 1800.03
Appendix E

LEGISLATIVE TRANSMITTAL DOCUMENTS

*Sample Transmittal Letter to the Council Chairman from the Mayor (**Attachment 1E**)*
Sample Memorandum from the Agency Director to the Chief Financial Office
Requesting a Fiscal Impact Statement (Attachment 2E);
Proposed Bill (Attachment 3E)
(4 pages)

Sample Transmittal Letter to the Council Chairman from the Mayor

[Date]

The Honorable Linda W. Cropp
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Cropp:

Enclosed for consideration and approval by the Council of the District of Columbia is proposed legislation to approve payment to [ABC, Inc.] for [goods/services] received without a valid written contract.

This payment request is being transmitted for Council approval pursuant to the "*Procurement Practices Vendor Payment Authorization Amendment Act of 2002*," effective April 4, 2003 (D.C. Law 14-281; D.C. Official Code § 2-301.05(d)). That law requires Council review and approval of payments for [goods/services] received without a valid written contract if the request exceeds \$100,000 or if the Chief Procurement Officer has previously considered two (2) requests for that same vendor.

The payment request is for [\$101,000]. Because the request exceeds \$100,000, and is the third such request submitted on behalf of [ABC, Inc.] since April 4, 2003, Council approval is required. Approval of this request would allow the vendor to be paid for [information technology services] provided to the [Department of XYZ] without a valid written contract.

I urge you to take prompt and favorable action on the enclosed legislation.

Sincerely,

Anthony A. Williams

Enclosures

AAW/nh

*Sample Memorandum from the Agency Director to the Chief Financial Officer
Requesting a Fiscal Impact Statement*

MEMORANDUM

TO: Dr. Natwar Gandhi
Chief Financial Officer

FROM: Agency Director
XYZ Agency

DATE:

SUBJECT: Request for Fiscal Impact Statement for the “[ABC, Inc.] Payment Authorization Act of 2003”

I hereby request a fiscal impact statement for the attached proposed bill entitled the “[ABC, Inc.] Payment Authorization Act of 2003”. The bill is being transmitted to the Council pursuant to the “Procurement Practices Vendor Payment Authorization Amendment Act of 2002,” effective April 4, 2003) D.C. Law 14-281; D.C. Official Code § 2-301.05(d)). That law requires Council review and approval of payments for goods or services received without a valid written contract if the request exceeds \$100,000 or if the Chief Procurement Officer has previously considered two (2) requests for that same vendor.

This payment request is for [\$101,000], and is the third such request submitted on behalf of [ABC, Inc.] since April 4, 2003. Approval of this request would allow the vendor to be paid for [information technology services] provided to the [Department of XYZ] without a valid written contract.

Please feel free to contact [] at [] if you need additional information.

Attachment

Chairman Linda W. Cropp,
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Linda W. Cropp, at the request of the Mayor, introduced the following bill that was referred to the Committee on _____.

To authorize payment to **[ABC, Inc.]** for **[goods/services]** provided to the **[Department of XYZ]** without a valid written contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “**[ABC, Inc.]** Payment Authorization Act of 2003”.

Sec. 2. Pursuant to D.C. Official Code § 2-301.05(d) of the Procurement Practices Vendor Payment Authorization Amendment Act of 2002, effective April 4, 2003 (D.C. Law 14-281), the Council hereby authorizes the **[Department of XYZ]** to pay **[ABC, Inc. \$101,000]** for **[goods/services]** received on **[April 5, 2003]** without a valid written contract.

Sec. 3. The Council adopts the fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

OCPD 1800.03
Appendix F

Sample
OCP Ratification Request Committee Meeting
Notice (OCP Form D)
(1 page)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



MEMORANDUM

TO: Agency Chief Contracting Officer, OCP
FROM: Rosalia Rojas, Executive Assistant, OCP
SUBJECT: **OCP Ratification Request Committee Meeting Notice**
DATE: August 11, 2003

The OCP Ratification Request Committee has scheduled a meeting to consider the following ratification requests filed by the [agency name]:

<u>ID Number</u>	<u>Vendor Name</u>	<u>Requested Amount</u>
1	ABC, Inc.	\$ 60,163.63

The meeting will be held on September 10, 2003, at 2:00 pm, in the Office of Contracting and Procurement, Room 700S (South Conference Room), at 441 4th Street, NW.

Also, please be advised that:

- 1) The Agency Chief Contracting Officer's attendance is required, and a failure to appear will result in the postponement of the Committee's consideration.
- 2) The attendance of an agency representative (other than the responsible employee) with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment, is required, and a failure to appear will result in the postponement of the Committee's consideration.
- 3) Any new or additional documentary information supporting the request should be brought to the meeting.
- 4) Your agency Chief Financial Officer should be informed of the meeting date, time and location, but is not required to attend.

Please feel free to contact me at (202) 724-4683 if you have any questions regarding this matter.

441 4th Street N.W., Suite 700-South, Washington, D.C. 20001 (202) 727-0252 Fax: (202) 724-5673

OCPD 1800.03/OCP Form D (page 1 of 1) (Rev. 8/11/03)

OCPD 1800.03
Appendix G

Sample
OCP Ratification Request Committee Recommendation Form
(OCP Form E)
(1 page)

OCP Ratification Request Committee Recommendation Form		ID No.:		
		Date:		
		Amt. Requested:		
		Amt. Approved:		
AGENCY:		AGENCY REPRESENTATIVE:		
ACCO:		VENDOR:		
Number of unauthorized commitments under \$100,000 submitted by the agency on behalf of the vendor since 4/4/03:		Number of unauthorized commitments exceeding \$100,000 submitted by the agency on behalf of the vendor since 4/4/03:		
<input type="checkbox"/> YES Are there any new facts, issues or circumstances relevant to the requested action? If yes, describe.				
<input type="checkbox"/> NO				
<input type="checkbox"/> YES Has remedial action been taken to prevent recurrence? If yes, describe.				
<input type="checkbox"/> NO				
<input type="checkbox"/> YES Was an adverse personnel action taken against the responsible employee?				
<input type="checkbox"/> NO				
RECOMMENDATION:		EXPLANATION:		
<input type="checkbox"/> APPROVAL <input type="checkbox"/> CONDITIONAL APPROVAL <input type="checkbox"/> DISAPPROVAL <input type="checkbox"/> NO ACTION				
COMMITTEE MEMBERS/VOTE				
Printed Name	Signature	Agency	Yes	No

OCPD 1800.03
Appendix H

Sample
Chief Procurement Officer Ratification Request Final Determination
Approval Memorandum
(OCP Form F)
(1 page)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



MEMORANDUM

TO: Agency Director
Department of XYZ

FROM: Jacques Abadie III, CPCM
Chief Procurement Officer

SUBJECT: Approval of Ratification Request #1 (ABC, Inc.)

DATE: August 11, 2003

The purpose of this memorandum is to inform you that, upon reviewing the recommendation of OCP's Ratification Request Committee, I have approved the ratification request submitted by the Department of XYZ on behalf of ABC, Inc. for \$60,163.63.

Pursuant to OCP Directive 1800.03, the ratification request file will be returned to Jane Roe, your Agency Chief Contracting Officer. Ms. Roe will inform ABC, Inc. that the request has been approved, and will process the pre-encumbered purchase order and any other documents needed to ensure that the vendor is paid.

Please feel free to contact me at (202) 724-0252 if you have any questions.

cc: Agency Chief Contracting Officer (OCP)
OCP Ratification Request File

OCPD 1800.03
Appendix I

Sample
Chief Procurement Officer Ratification Request Final Determination
Disapproval Memorandum
(OCP Form G)
(1 page)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



MEMORANDUM

TO: Agency Director
Department of XYZ

FROM: Jacques Abadie III, CPCM
Chief Procurement Officer
Office of Contracting and Procurement

SUBJECT: Disapproval of Ratification Request #3 (ABC, Inc.)

DATE: April 11, 2003

Please be advised that the ratification request filed by your agency on behalf of ABC, Inc. in the amount of \$61,163.63 has been denied. The request was denied because:

☒ The CPO concurs with the Ratification Request Committee recommendation to deny the request.

☐ Insufficient documentation has been submitted to support the request.

☐ The Chief Financial Officer has denied the request.

☐ Approval would violate District law or regulations.

☐ Approval would result in payment of an unallowable cost.

☐ There is no evidence that remedial action has been taken to prevent recurrence.

☒ Food, travel and/or lodging cannot be approved.

☐ Other: _____

The original ratification request file has been returned to Jane Roe, your Agency Chief Contracting Officer, who will advise the vendor of the denial.

cc: Jane Roe, Agency Chief Contracting Officer (OCP)
OCP Ratification Request File

8/11/03)

OCPD 1800.03
Appendix J

Sample
Chief Procurement Officer Ratification Request Transmittal Memorandum
(OCP Form H)
(1 page)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



MEMORANDUM

TO: Agency Director
Department of XYZ

FROM: Jacques Abadie III, CPCM
Chief Procurement Officer

SUBJECT: Transmittal of Ratification Request Package to the Council

DATE: August 11, 2003

The purpose of this memorandum is to inform you that your agency's ratification request submitted on behalf of ABC, Inc. for \$101,000 was forwarded to the Mayor for transmittal to the Council as required by the *Procurement Practices Vendor Payment Authorization Amendment Act of 2002*, effective April 4, 2003 (D.C. Law 14-281; D.C. Official Code § 2-301.05(d)). That law requires the Council to review and approve ratification requests exceeding \$100,000, as well as any ratification request for a vendor if the Chief Procurement Officer has previously approved two (2) requests on that vendor's behalf.

Please feel free to contact me at (202) 727-0252 if you have any questions.

cc: Agency Chief Contracting Officer (OCP)
OCP Ratification Request File

OCPD 1800.03
Appendix K

Sample
Agency Director Notification Memorandum
regarding the prohibition against purchases of goods and services
without a valid written contract
(1 page)

Sample Notification Memorandum

TO: Agency Staff

FROM: Agency Director

SUBJECT: **Prohibition Against Purchases of Goods or Services Without a Valid Written Contract**

DATE: August 11, 2003

The District of Columbia Procurement Practices Act of 1985 (PPA), as amended by the *Procurement Reform Amendment Act of 1996* (D.C. Law 11-259), and the *Procurement Practices Vendor Payment Authorization Amendment Act of 2002* (D.C. Law 14-281), makes the District's Chief Procurement Officer (CPO) the exclusive contracting authority for procurements in agencies under the Mayor's authority. As such, the CPO is authorized to delegate contracting authority to either a contracting officer or contract specialist.

The PPA also imposes limitations on the way in which goods and services may be procured on behalf of the District. For example, the PPA generally provides that:

- ? No District employee shall authorize payment for the value of goods or services received without a valid written contract. (This prohibition does not apply to a payment required by court order, a final decision of the Contract Appeals Board, or approval by the CPO.)
- ? No District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid, written contract. Any violation of this prohibition shall be cause for the employee's termination.
- ? Any vendor who enters into an oral agreement with a District employee to provide goods or services to the District government without a valid written contract shall not be paid. If the oral agreement was entered into by a District employee at the direction of a supervisor, the supervisor shall be terminated.
- ? The CPO may authorize payment for goods or services received without a valid written contract if:
 - (i) the payment request does not exceed \$100,000; and (ii) no more than two (2) such requests have been submitted on a vendor's behalf to the CPO.
- ? Unauthorized commitments above \$100,000 and those submitted after the first two (2) have been considered by the CPO shall be forwarded to the Mayor (by the CPO) for transmittal to the Council for its review and approval.
- ? The purpose of this memorandum is to remind all employees that goods and services should be procured without a properly executed contract or purchase order. Any employee in this agency name who fails to comply with the District's procurement laws and regulations must be subjected to an adverse personnel action in accordance with District personnel rules that could include a reprimand, suspension or termination.
- ? The CPO cannot consider an agency's ratification request to approve an unauthorized commitment until he receives written notification of the disciplinary action taken against the

responsible employee. (Due to the right of privacy and personnel regulations, the employee's name, title, grade and address cannot be disclosed to the public.)

Please feel free to contact _____ with my office at (202) _____ if you have any questions regarding this important issue.

OCPD 1800.03
Appendix L

“What You Should Know About the Ratification Process”
(4 pages)



WHAT YOU SHOULD KNOW ABOUT THE RATIFICATION PROCESS

1. **RATIFICATION REQUEST COMMITTEE MEETING SCHEDULE.** The Committee Chair, with the assistance of the CPO's Executive Assistant, will be responsible for scheduling Committee meetings.
2. **RETURNED RATIFICATION REQUEST PACKAGES.** Ratification requests must be reviewed carefully before they are filed. If a request is returned after a meeting is scheduled because documents are missing or it is otherwise improperly filed, the meeting will be rescheduled for consideration at a later date. *This will needlessly delay the consideration of your ratification request.*
3. **COPIES OF THE RATIFICATION REQUEST.** The ACCO must transmit the *original and six (6) copies* of a ratification request package to the CPO's Executive Assistant.
4. **TYPES OF RATIFICATION REQUESTS.** There are two (2) types of ratification requests:
 - (a) CPO-approved ratification requests; and
 - (b) Council-approved ratification requests.
5. **CPO-APPROVED RATIFICATIONS.**
 - (a) The CPO will consider ratification requests that either do not exceed \$100,000 or are the first two (2) requests submitted on a vendor's behalf.
 - (b) An agency's ratification request considered by the CPO must contain the original and six (6) copies of:
 - (i) A transmittal or cover letter from the agency to the CPO;
 - (ii) Completed *OCP Forms A* through *C*;
 - (iii) A copy of the original contract, if any;
 - (iv) Invoices;

- (v) Timesheets, if any;
 - (vi) Receipts, if any;
 - (vii) Relevant correspondence, if any;
 - (viii) Determinations and Findings;
 - (ix) A pre-encumbered purchase request indicating the following: “Appropriated funds are available and have been encumbered, and payment should be made subject to the CPO’s approval of the ratification request.”; and
 - (x) Any other pertinent documents substantiating the ratification request.
- (c) **Agency and Vendor Notification of CPO Final Decisions.** Once the CPO has either approved or denied a ratification request, the ACCO must forward a copy of the approval or denial memorandum to the Agency Director, and advise the vendor of the decision in writing.

6. COUNCIL-APPROVED RATIFICATIONS.

- (a) The Council will consider ratification requests exceeding \$100,000, or all ratification requests submitted on a vendor’s behalf once the CPO has considered the first two (2) on a vendor’s behalf.
- (b) An agency’s ratification request considered by the Council must contain the original and six (6) copies of:
 - (i) The documents required under subsection 4.6; and
 - (ii) The *Legislative Transmittal Documents* required under subsection 4.7 as completed by the agency, including a transmittal letter to the Council Chairman from the Mayor; a memorandum from the Agency Director to the Chief Financial Officer requesting a fiscal impact statement; and a proposed bill.
- (c) Even though the CPO does not render a final decision regarding Council-approved ratification requests, he must review the requests prior to their transmittal to the Council by the Mayor. The CPO will forward the original documents to the appropriate office after they are reviewed.
- (d) If a ratification request is to be considered by the Council, the ACCO is responsible for forwarding a copy of the original ratification request package and the *Legislative Transmittal Documents* to the agency’s Deputy Mayor.

- (e) An ACCO is responsible for notifying the Agency Director and the vendor of the Council's final decision in writing.
- (f) The CPO has no control over when a ratification request will be reviewed by the Council once it is forwarded.

7. Disciplinary Action.

- (a) Disciplinary action is mandatory under the ratification process.
- (b) **Responsible Employee Termination.** The employee responsible for an unauthorized commitment can be terminated.
- (c) **Supervisor Terminations.** If a District employee, at the direction of a supervisor, enters into an oral agreement with a vendor regarding the receipt of goods or services, the supervisor must be terminated.
- (d) **Proof of Disciplinary Action.** The CPO must be provided a written description of the disciplinary action taken by the relevant personnel authority against the employee responsible for the ratification request.
- (e) **Employee Right of Privacy.** Any information required by this policy concerning disciplinary action imposed against the responsible employee must not identify his or her name, title, grade or address.

8. Forms.

- (a) **Agency Representative Ratification Request and Certification Form.** Prepared by the District employee responsible for the ratification request, or an agency representative with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment. (*OCP Form A*) (Appendix B)
- (b) **Agency Director Ratification Request and Certification Form.** Prepared by the agency that received the goods and services in question. The form must include: (i) the number of unauthorized commitments that do not exceed \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003; (ii) the number of unauthorized commitments exceeding \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003; and (iii) the CFO's certification. (*OCP Form B*) (Appendix C)
- (c) **Agency Chief Contracting Officer Findings and Determination Statement.** Prepared by the ACCO for the agency that received the goods or services in question. The form must include the basis for determining that the price to be paid for the goods and services is fair and reasonable. (*OCP Form C*) (Appendix D)

9. **Ratification Request File Close Out.** An ACCO is responsible for closing out a ratification request file, which process includes ensuring that all appropriate documentation is attached. The file must contain all pertinent documents, including a copy of the payment

***** END OF DOCUMENT *****